

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**MAURO TORRES-CASTRO,**

**Defendant.**

**8:15CR33**

**ORDER**

This matter is before the Court on the Defendant's Notice of Appeal, ECF No. 169, and a memorandum from the Clerk of Court requesting a decision regarding whether Defendant may proceed in forma pauperis on appeal, ECF No. 170.

Before the Defendant may appeal the denial of his § 2255 motion, a certificate of appealability must issue. See 28 U.S.C. § 2253(c). The Court declined to issue a certificate of appealability in its previous Memorandum and Order, ECF No. 166. The Court will construe the Notice of Appeal as a Motion for Reconsideration of its denial of a certificate of appealability. For the reasons discussed in the Court's previous Memorandum and Order, the Motion is denied.

Defendant has not provided an affidavit or motion to proceed in forma pauperis as required by Federal Rule of Appellate Procedure 24(a)(1). Defendant was not previously permitted to proceed in forma pauperis in this case, therefore he does not qualify to proceed in forma pauperis under Federal Rule of Appellate Procedure 24(a)(3). For those reasons, and the reasons stated above, Defendant will not be permitted to proceed in forma pauperis.

Accordingly,

IT IS ORDERED:

1. No certificate of appealability will be issued;
2. Defendant may not proceed in forma pauperis;
3. The Clerk of Court is directed to provide a copy of this Order to the Eighth Circuit Court of Appeals; and
4. A copy of this Order shall be mailed to the Defendant at his last known address.

Dated this 25<sup>th</sup> day of November, 2019.

BY THE COURT:

s/Laurie Smith Camp  
Senior United States District Judge